



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/194,049 05/06/99 POISEL

H 1384.1006/JD

EXAMINER

PM82/0309

HANS POISEL
PUHLHOF 14
D-91227
LEINBURG
FED REP GERMANY

MOSKOWITZ N
ART UNIT

PAPER NUMBER

AIR MAIL

3662
DATE MAILED:

03/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/194,049

Applicant(s)

POISEL, HANS

Examiner

Nelson Moskowitz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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1. Applicants' letters received October 20, 2000 and December 22, 2000 has been made of record and the amendments have been entered.
2. The text of those section of title 35 U.S. code not included in this action can be found in a prior Office action.
3. Claims 9-17 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention.

The claim terminology "elastic dispersion" is indefinite and appears to have been given differing definitions by applicant. ^{prior} Claim 1, as filed, defined "elastic dispersion" as the wavelength of diffused light corresponds to the wavelength of the irradiated light. In a June 23, 1998 letter to the European Patent Office applicant defined "elastic dispersion" to mean light incident on the fiber is deviated in the fiber in the direction of the fiber axis invariant of wavelength, and stressed the criticality of this definition in view of applied prior art. Applicants specification implies an equivalence of "elastic dispersion" with stimulated emission. It is noted that stimulated emission is not an elastic dispersion process.

It is noted that the FIBER OPTICS STANDARD DICTIONARY (third edition, Weik) contains no definition of elastic dispersion and a text search of this terminology in patent and non-patent data bases has not produced a reference using this terminology for optical systems.

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Thus, the metes and bounds of the above cited claims can not be determined with a reasonable degree of certainty by one skilled in this art. These cited phrase is not clearly defined in the specification or prior art, and appear to be erroneous statements of physics principles.

4. . Claims 9-17 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As one skilled in this art would not know what elastic dispersion is, the artisan would be unable to determine which synthetic materials are capable of causing elastic dispersion of optical signals and would therefore be unable to make and use the claimed receiver.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --


(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

To the extent they are understood at this time, claims 9-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Desurvire or Kanamori. See, inter alia, Desurvire at pages 118-119 and Fig. 1 of Kanamori.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


NELSON MOSKOWITZ
PRIMARY EXAMINER